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Paper No. 8

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OFFICE OF PETITIONS

In re Application of
Branislav Petrovic
Application No. 09/580,504
Filed: May 25, 2000
Attorney Docket No. 90205

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 12, 2004, to revive the above-identified application.

The petition is **GRANTED** for the reasons stated below.

A Notice to File Missing Parts (Notice) was mailed to applicant on March 14, 2002, which set a two-month shortened statutory period within which to submit a reply. Although the Notice was mailed to the law firm of "Skjerven Morrill Macpherson LLP" (Skjerven) instead of the attorney of record at the time, "Richard Strawbrich," a reply and appropriate extension of time was timely filed on July 22, 2002. However, the check submitted to cover the required fees was deficient. As a result, a Notice of Incomplete Reply was mailed on July 31, 2002 that informed applicant of the fee deficiency. Nevertheless, it was mailed to Skjerven instead of the address listed on the declaration. The balance of the fee due was never received in the Office, which resulted in the abandonment of the application.

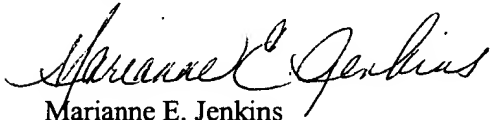
Petitioner argues that the Notice of Incomplete Reply was mailed to the wrong address and this error caused the abandonment of the application. While the Office mailed the Notice of Incomplete Reply to an incorrect address, that correspondence did not set a new statutory time period for submitting a reply. The original Notice informed applicant of the outstanding fee requirements, the time period in that Notice continued to run, and it was applicant's obligation to submit the correct fee when the reply was sent on July 22, 2002. Petitioner received adequate notice of the requirements to make the application whole. *Brenner v. Ebbert*, 130 U.S. App. D.C. 168. Failure to submit the proper fee amount is what caused the application to go abandoned. Moreover, it was applicant's responsibility to inform the Office of the correct correspondence address. Although the address was included in the declaration, applicant should have filed a separate change of address. MPEP 601.03 in pertinent part states:

"The required notification of change of correspondence address need take no particular form. However, it should be provided in a manner calling attention to the fact that a change of address is being made. Thus, the mere inclusion, in a paper being filed for another purpose, of an address which is different from the previously provided correspondence address, without mention of the fact that an address change is being made would not ordinarily be recognized or deemed as instructions to change the correspondence address on the file record."

Accordingly, the application was properly abandoned and the petition fee of \$665 will not be refunded, as requested by petitioner.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being forwarded to Technology Center 2800.

A handwritten signature in cursive script, reading "Marianne E. Jenkins".

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy